

California Regional Water Quality Control Board
Santa Ana Region
Staff Report
April 30, 2004

ITEM: 13

SUBJECT: Mandatory Penalty Complaint No. R8-2004-0026 for Atlantic Richfield Company, Station #3053, Huntington Beach – Order No. R8-2004-0054

BACKGROUND

On April 1, 2004, the Executive Officer issued Mandatory Penalty Complaint (MPC) No. R8-2004-0026 to Atlantic Richfield Company (ARCO) for an alleged violation of the General Groundwater Cleanup Permit, Order No. R8-2002-0007 (General Permit). In the MPC (attached), the Executive Officer proposed an assessment of \$3,000 for the alleged violation.

INTRODUCTION

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is to consider adoption of Order No. R8-2004-0054, which affirms MPC No. R8-2004-0026. MPC No. R8-2004-0026 was issued by the Executive Officer to ARCO for a violation of the General Permit for which the Board must impose a mandatory penalty pursuant to California Water Code (Water Code) Section 13385(h) and (i).

DISCUSSION

ARCO currently operates a gasoline service station at 5981 Warner Avenue in the City of Huntington Beach. Groundwater beneath the site is contaminated from underground storage tank related leaks and a groundwater treatment system treats and discharges groundwater from the site.

On July 16, 2002, ARCO was authorized to discharge treated water from its groundwater cleanup system under the General Permit in accordance with Monitoring and Reporting Program No. 2002-0007-89. The General Permit regulates the discharge of treated groundwater from petroleum-contaminated sites and contains effluent limits for a number of constituents, including a daily maximum limit for tertiary butyl alcohol (TBA). TBA is a Group II pollutant as specified in Appendix A to Section 123.45 of Title 40 CFR.

ARCO submitted a self-monitoring report, which indicated an effluent limit violation for TBA. The report indicates that ARCO violated the daily effluent limit

for TBA on April 15, 2003, with a discharge result of 430 µg/L. The discharge limit for TBA in the General Permit is 18.6 µg/L. This is considered as a serious violation.

In accordance with Water Code Section 13385(h), the violation is subject to a mandatory minimum penalty of \$3,000. Complaint No. R8-2004-0026 proposed an assessment of \$3,000 for this violation.

STATEWIDE ENFORCEMENT POLICY

On February 19, 2002, the State Water Resources Control Board adopted a Revised Water Quality Enforcement Policy to ensure that enforcement actions throughout the State are fair, firm and consistent. The above-described mandatory penalty complaint is in accordance with the State Enforcement Policy.

RECOMMENDATION

Board staff recommends that the Board affirm MPC No. R8-2004-0026 by adopting Order No. R8-2004-0054.

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Order No. R8-2004-0054
)	for
Atlantic Richfield Company)	Mandatory Minimum Penalties
4 Centerpointe Drive)	
La Palma, CA 90623)	
<u>Attn: Darrel Fah</u>)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on April 30, 2004 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2004-0026, dated April 1, 2004, and on the recommendation for the imposition of a mandatory penalty pursuant to Water Code Section 13385 in the amount of \$3,000. The Board finds as follows:

1. On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. R8-2002-0007 (NPDES No. CAG918001), General Groundwater Cleanup Permit (Permit). The Permit regulates discharges of extracted and treated groundwater resulting from the cleanup of groundwater polluted by petroleum hydrocarbons and/or solvents within the Santa Ana Region. The Permit contains effluent limits for a number of constituents, including tertiary butyl alcohol (TBA). On July 16, 2002, the Executive Officer authorized Atlantic Richfield Company (ARCO) to discharge treated groundwater from ARCO Service Station #3053, located at 5981 Warner Avenue in the City of Huntington Beach, under the Permit. The discharge from ARCO's system went into a storm drain, then to East Garden Grove Wintersberg Channel, a water of the United States. ARCO was required to monitor the discharge in accordance with Monitoring and Reporting Program No. 2002-0007-89.
2. ARCO submitted a self-monitoring report, which indicates that it had a daily effluent limit violation on April 15, 2003. This violation is considered a serious violation and is subject to a mandatory minimum penalty.
3. Water Code Sections 13385(h) and (i) require the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious and/or chronic violation.
4. In accordance with Water Code Section 13385(h), the total mandatory minimum penalty for the effluent limitation violation cited in Section 2, above, is \$3,000.
5. On April 1, 2004, the Executive Officer issued Complaint No. R8-2004-0026 to ARCO proposing that the Board impose the mandatory minimum penalty of \$3,000 on ARCO for the violation cited above.

6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385, a mandatory penalty be imposed on Atlantic Richfield Company in the amount of \$3,000, as proposed in Complaint No. R8-2004-0026 for the violation cited above, payable as set forth below.

1. ARCO shall pay the entire \$3,000 to the State Water Resources Control Board.
2. The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on April 30, 2004.

Gerard J. Thibeault
Executive Officer

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

IN THE MATTER OF:)	Complaint No. R8-2004-0026
)	for
Atlantic Richfield Company)	Mandatory Penalties
4 Centerpointe Drive)	
La Palma, CA 90623)	
Attention: Darrell Fah)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Atlantic Richfield Company (ARCO) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (Board) must impose mandatory penalties pursuant to California Water Code (Water Code) Section 13385(h) and (i).
2. A hearing concerning this Complaint is scheduled for the Board's regular meeting on April 30, 2004. ARCO or its representatives will have an opportunity to appear and be heard, and to contest the allegations in this complaint and the imposition of mandatory penalties by the Board. An agenda announcement and the staff report related to this Complaint will be mailed to you not less than 10 days prior to the hearing date.
3. If the hearing is necessary, the Board will consider whether to affirm, reject or modify the proposed mandatory penalty or whether to refer this matter to the Attorney General for recovery of judicial civil liability.
4. This complaint is based on the following facts:
 - a) ARCO currently operates a service station at 5981 Warner Avenue, in the City of Huntington Beach. A groundwater treatment system treats and discharges groundwater to remediate the effects of an underground storage tank release at the site. On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. 2002-0007 (NPDES No. CAG918001), General Groundwater Cleanup Permit (Permit). The Permit regulates discharges of extracted and treated groundwater resulting from the cleanup of petroleum hydrocarbons and/or solvents within the Santa Ana Region by establishing effluent limits for a number of constituents, including tertiary butyl alcohol (TBA).
 - b) On July 16, 2002, ARCO was authorized to discharge treated groundwater resulting from its groundwater treatment system and was required to monitor the discharge in accordance with Monitoring and Reporting Program No. 2002-0007-089.

- c) ARCO submitted a self-monitoring report, which shows a daily effluent limit violation for TBA. This violation is summarized on Attachment "A", included as Page 3 of this complaint.
5. Water Code Section 13385(h) and (i) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious and/or other specific types of violations.
 6. As shown in Attachment "A", ARCO violated the maximum daily limit for TBA on April 15, 2003, with a discharge result of 430 $\mu\text{g/L}$. This exceedence is considered a serious violation and is subject to a mandatory minimum penalty.
 7. In accordance with Water Code Section 13385(h), the mandatory minimum penalty for the violation cited in Section 6, above, is \$3,000.
 8. In addition, the Board may also assess administrative civil liability of \$10,000 per day for each day of violation and \$10 per gallon for each gallon discharged in excess of 1,000 gallons in accordance with Water Code Section 13385(c). The maximum administrative civil liability that may be imposed for this violation is \$10,000 (\$10,000 for one day of violation and \$0 because less than 1,000 gallons [531 gallons] was discharged).
 9. After consideration of the facts, the Executive Officer proposes that a mandatory minimum penalty in the amount of \$3,000 be imposed on Atlantic Richfield Company, by the Board, for the violation cited above.
 10. You may waive your right to a hearing. If you wish to waive this right, please sign the attached waiver form and return it, along with a check or money order for \$3,000, made payable to the State Water Resources Control Board, and the bottom portion of the invoice, to Sacramento in the enclosed envelope.

If you have any questions regarding this complaint, please contact Ken Williams at (909) 782-4496, or Valerie Jahn-Bull at (909) 782-4903, or the Board's legal counsel, Jorge Leon, at (916) 341-5180.

4/1/04
Date


Gerard J. Thibeault
Executive Officer

In the matter of:)	Complaint No. R8-2004-0026
)	for
Atlantic Richfield Company)	Mandatory Penalties
4 Centrepointhe Drive)	
La Palma, CA 91301)	
)	
Attention: Darrell Fah)	

WAIVER OF HEARING

I agree to waive the right of Atlantic Richfield Company to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violation alleged in Complaint No. R8-2004-0026. I have enclosed a check for \$3,000, made payable to the State Water Resources Control Board, as settlement. I understand that I am giving up the right of Atlantic Richfield Company to be heard and to argue against allegations made by the Executive Officer in this Complaint and against the imposition of, and amount of, the liability proposed.

Date

for Atlantic Richfield Company

ATTACHMENT "A"

TABLE 1.
EFFLUENT LIMIT VIOLATIONS FOR TERTIARY BUTYL ALCOHOL

VIOULATION	VIOULATION TYPE	DISCHARGE FLOW Gallons Per Day	EFFLUENT LIMIT* (µg/l)	DISCHARGE (µg/l)
4/15/03	Daily Max	531	18.6	430

* The receiving water is East Garden Grove Wintersberg Channel, which is not designated for municipal use.

NA – Not applicable



State Water Resources Control Board



Terry Tamminen
Secretary for
Environmental
Protection

*The energy challenge facing California is real.
Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at <http://www.swrcb.ca.gov>*

**Arnold
Schwarzenegger**
Governor

To:

ARCO PRODUCTS CO.
4 CENTERPOINTE DRIVE
LA PALMA, CA 90623-1066
ATTN: DARREL FAH

Invoice No: 45161
Invoice Date: 04/01/2004
Enforcement Action ID: 84525
Enforcement Order No: R8-2004-0026

INVOICE

Milestone ID	Description	Amount	Due Date
55876	LIABILITY AMOUNT	\$3,000.00	04/22/2004
TOTAL AMOUNT DUE		\$3,000.00	

California Environmental Protection Agency



Retain above portion for your records

Please return bottom portion with your payment

ARCO PRODUCTS CO.
4 CENTERPOINTE DRIVE
LA PALMA, CA 90623-1066
ATTN: DARREL FAH

Make your check payable to:

State Water Resources Control Board

Mail payment to:

SWRCB ACCOUNTING
ATTN: ENFORCEMENT
P. O. Box 100
SACRAMENTO, CA 95812-0100

Milestone ID	Description	Amount	Due Date
55876	LIABDUE	\$3,000.00	04/22/2004
TOTAL AMOUNT DUE		\$3,000.00	

Amount Enclosed: \$ _____

PLEASE PRINT THE FOLLOWING INVOICE NUMBER ON YOUR CHECK:

45161

Invoice Date: 04/01/2004
Enforcement Action ID: 84525
Enforcement Order No.: R8-2004-0026



California Regional Water Quality Control Board

Santa Ana Region



Terry Tamminen
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb8>
3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (909) 782-4130 - FAX (909) 781-6288

Arnold
Schwarzenegger
Governor

April 1, 2004

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Darrell Fah
Environmental Business Manager
Atlantic Richfield Company
4 Centerpointe Drive
La Palma, CA 90623

MANDATORY PENALTY COMPLAINT NO. R8-2004-0026

Dear Mr. Fah:

We are enclosing a certified copy of Complaint No. R8-2004-0026, which proposes a mandatory penalty of \$3,000. This complaint is issued pursuant to California Water Code Section 13385 (h), for an effluent limitation violation established in Waste Discharge Requirements, Order No. R8-2002-0007 (NPDES No. CAG918001). An invoice for this amount is also enclosed.

If necessary, consideration of this matter will be scheduled for the Board's meeting on April 30, 2004. The staff report regarding this complaint and a meeting agenda will be mailed to you not less than 10 days prior to the Board meeting.

You have the option to waive your right to a hearing. Should you decide to waive your right and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If you choose to waive your right to a hearing, please sign the enclosed waiver form and submit the form with a check or money order for \$3,000. The waiver form, the bottom portion of the invoice and the check or money order should be mailed to Sacramento using the enclosed envelope. All other correspondence regarding this complaint should be directed to the Regional Board office listed on this letterhead.

If you do not wish to waive your right to a hearing, a pre-hearing meeting with Board staff is recommended. Should you wish to schedule a pre-hearing meeting, please contact us prior to April 12, 2004. At that time, you may submit information that might not have been previously available to staff regarding this violation. This information should address the accuracy of the findings in the complaint.

California Environmental Protection Agency



Recycled Paper

April 1, 2004

If you have any questions regarding this complaint, you may contact Ken Williams at (909) 782-4496 or Valerie Jahn-Bull at (909) 782-4903. All legal questions should be referred to our legal counsel, Jorge Leon, at (916) 341-5180.

Sincerely,



Gerard J. Thibeault
Executive Officer

Enclosures: Complaint No. R8-2004-0026, Waiver Form, Invoice and envelope

Cc w/enc. (R8-2004-0026):

Regional Board

State Water Resources Control Board, Division of Clean Water – UST Chief

State Water Resources Control Board, Office of the Chief Counsel – Jorge Leon

U.S. Environmental Protection Agency, Region 9 (WTR-7) – Kathi Moore

Mr. Bryan Van Wagner, Delta Environmental Consultants, Inc.

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Please cc:

UST Chief
State Water Resources Control Board
Division of Clean Water

Jorge Leon
State Water Resources Control Board
Office of the Chief Counsel

Kathi Moore
Environmental Protection Agency
Region 9 (WTR-7)

Bryan Van Wagner
Delta Environmental Consultants, Inc.
27141 Aliso Creek Road, Suite 270
Aliso Viejo, CA 92656

